

Assembly Bill No. 2568

CHAPTER 838

An act to amend Sections 14123 and 14124.2 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 22, 1996. Filed
with Secretary of State September 24, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2568, Woods. Medi-Cal: dental providers.

Existing law provides for the Medi-Cal program, administered by the State Department of Health Services, under which qualified low-income persons are provided with health care services, including dental services.

Existing law contains specified grounds upon which the Director of Health Services may suspend a health care provider from participation in the Medi-Cal program.

This bill would, in addition, permit suspension by the director of a provider of dental services for the provision of services which are below or less than the standard of acceptable quality established by the California Dental Association Guidelines for the Assessment of Clinical Quality and Professional Performance.

This bill would incorporate additional changes in Section 14124.2 of the Welfare and Institutions Code, proposed by AB 2565, to be operative only if AB 2565 and this bill are both chaptered and become effective January 1, 1997, and this bill is chaptered last.

The people of the State of California do enact as follows:

SECTION 1. Section 14123 of the Welfare and Institutions Code is amended to read:

14123. Participation in the Medi-Cal program by a provider of service is subject to suspension in order to protect the health of the recipients and the funds appropriated to carry out this chapter.

(a) The director may suspend a provider of service from further participation under the Medi-Cal program for violation of any provision of this chapter or Chapter 8 (commencing with Section 14200) or any rule or regulation promulgated by the director pursuant to those chapters. Any such suspension may be for an indefinite or specified period of time and with or without conditions or may be imposed with the operation of the suspension stayed or probation granted. The director shall suspend a provider of service for conviction of any felony or any misdemeanor involving fraud, abuse of the Medi-Cal program or any patient, or otherwise

substantially related to the qualifications, functions, or duties of a provider of service.

If the provider of service is a clinic, group, corporation, or other association, conviction of any officer, director, or shareholder with a 10 percent or greater interest in that organization, of such a crime shall result in the suspension of that organization and the individual convicted if the director believes that suspension would be in the best interest of the Medi-Cal program. If the provider of services is a political subdivision of the state or other government agency, the conviction of the person in charge of the facility of such a crime may result in the suspension of that facility. The record of conviction or a certified copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence of the fact that the conviction occurred. A plea or verdict of guilty, or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section.

After conviction but before the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, the director, if he or she believes that suspension would be in the best interests of the Medi-Cal program, may order the suspension of a provider of service. When the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence irrespective of any subsequent order under Section 1203.4 of the Penal Code allowing a person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment, the director shall order the suspension of a provider of service. The suspension shall not take effect earlier than the date of the director's order. Suspension following a conviction is not subject to the proceedings required in subdivision (c). However, the director may grant an informal hearing at the request of the provider of service to determine in the director's sole discretion if the circumstances surrounding the conviction justify rescinding or otherwise modifying the suspension provided for in this subdivision.

If the provider of service appeals the conviction and the conviction is reversed, the provider may apply for reinstatement to the Medi-Cal program after the conviction is reversed. Notwithstanding Section 14126.6, the application for reinstatement shall not be subject to the one-year waiting period for the filing of a reinstatement petition pursuant to Section 11522 of the Government Code.

(b) Whenever the director receives written notification from the Secretary of the United States Department of Health and Human Services, that a physician or other individual practitioner has been suspended from participation in the Medicare or Medicaid programs, the director shall, promptly suspend the practitioner from participation in the Medi-Cal program. This automatic suspension is



not subject to the proceedings required in subdivision (c). No payment from state or federal funds may be made for any item or service rendered by the practitioner during the period of suspension.

(c) The proceedings for suspension shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except that hearings may be conducted by departmental hearing officers appointed by the director. The director may periodically subcontract with the Office of Administrative Hearings to conduct the hearings. The director may temporarily suspend any provider of service prior to any hearing when in his or her opinion that action is necessary to protect the public welfare or the interests of the Medi-Cal program. The director shall notify the provider of service of the temporary suspension and the effective date thereof and at the same time serve the provider with an accusation. The accusation and all proceedings thereafter shall be in accordance with the sections of the Government Code specified in this subdivision. Upon receipt of a notice of defense by the provider, the director shall set the matter for hearing within 30 days after receipt of the notice. The temporary suspension shall remain in effect until such time as the hearing is completed and the director has made a final determination on the merits. The temporary suspension shall, however, be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed. This subdivision does not apply where the suspension of a provider is based upon the conviction of any crime involving fraud, abuse of the Medi-Cal program, or suspension from the federal Medicare program. In those instances, suspension shall be automatic.

(d) The suspension by the director of any provider of service shall preclude the provider from submitting claims for payment, either personally or through claims submitted by any clinic, group, corporation, or other association to the Medi-Cal program for any services or supplies the provider has provided under the program, except for services or supplies provided prior to the suspension. No clinic, group, corporation, or other association which is a provider of service shall submit claims for payment to the Medi-Cal program for any services or supplies provided by a person within the organization who has been suspended or revoked by the director, except for services or supplies provided prior to the suspension.

Where the provisions of this chapter or Chapter 8 (commencing with Section 14200) or the regulations promulgated by the director are violated by a provider of service which is a clinic, group, corporation, or other association, the director may suspend the organization and any individual person within the organization who is responsible for the violation.



(e) Notice of the suspension shall be sent by the director to the provider's state licensing, certifying, or registering authority, along with the evidence upon which the suspension was based.

(f) In addition to the bases for suspension contained in subdivisions (a) and (b), the director may suspend a provider of service from further participation under the Medi-Cal dental program for the provision of services that are below or less than the standard of acceptable quality, as established by the California Dental Association Guidelines for the Assessment of Clinical Quality and Professional Performance, Copyright 1995, Third Edition, as periodically amended. Any such suspension shall be subject to the requirements contained in subdivisions (a) to (e), inclusive.

SEC. 2. Section 14124.2 of the Welfare and Institutions Code is amended to read:

14124.2. During normal working hours, the department may make any examination of the books and records of any provider pertaining to services rendered to any beneficiary under this chapter or Chapter 8 (commencing with Section 14200), and may visit and inspect the premises or facilities of any provider it may deem necessary to carry out the provisions of this chapter and regulations adopted thereunder. A provider shall furnish that information or copies of those records and documentation upon request by the department. Unannounced visits to request that information shall be reserved for those exceptional situations where arrangement of an appointment beforehand is clearly not possible or is clearly inappropriate to the nature of the intended visit. Only those related books and records of each service rendered, the beneficiary to whom rendered, the date, and any additional information as the department may by regulation require shall be subject to the requirement of furnishing copies. This information may include records to support and document the recipient's eligibility for services, and to the extent necessary records to provide proof of the quantity and receipt of these services, and that the services were provided by proper personnel. Providers shall be reimbursed for reasonable photocopying related expenses as determined by the department. Failure to comply with this request shall be grounds for immediate suspension of the provider under subdivision (b) of Section 14123.

Any copies furnished pursuant to this section shall be used only to investigate and pursue criminal or administrative sanctions for Medi-Cal fraud and abuse or the provision of dental services that are below or less than the standard of acceptable quality as prescribed by subdivision (f) of Section 14123, and these copies shall be destroyed when that purpose has been satisfied. This section shall not be construed to prohibit the referral of investigative findings, including copies of those books and records, to the appropriate state licensing, certifying or regulatory authority.



SEC. 3. Section 14124.2 of the Welfare and Institutions Code is amended to read:

14124.2. (a) During normal working hours, the department may make any examination of the books and records of any provider pertaining to services rendered to any beneficiary under this chapter or Chapter 8 (commencing with Section 14200) of this part, and may visit and inspect the premises or facilities of any provider it may deem necessary to carry out the provisions of this chapter and regulations adopted thereunder. A provider shall furnish this information or copies of the records and documentation upon request by the department. Unannounced visits to request this information shall be reserved for those exceptional situations where arrangement of an appointment beforehand is clearly not possible or is clearly inappropriate to the nature of the intended visit. Only those related books and records of each service rendered, the beneficiary to whom rendered, the date, and additional information as the department may by regulation require shall be subject to the requirement of furnishing copies. This information may include records to support and document the recipient's eligibility for services and, to the extent necessary, records to provide proof of the quantity and receipt of the services, and that the services were provided by proper personnel. Providers shall be reimbursed for reasonable photocopying-related expenses as determined by the department. Failure to comply with the request shall be grounds for immediate suspension of the provider under subdivision (b) of Section 14123.

(b) Any copies furnished pursuant to this section shall be used only to investigate and pursue criminal or administrative sanctions for Medi-Cal fraud and abuse or the provision of dental services that are below or less than the standard of acceptable quality as prescribed by subdivision (f) of Section 14123, and the copies shall be destroyed when that purpose has been satisfied. This section shall not be construed to prohibit the referral of investigative findings, including copies of books and records, to the appropriate state licensing, certifying, or regulatory authority.

(c) For purposes of this section and Section 14124.1, "provider" shall, in addition to the provider of health care services, also include any person or entity under contract with the provider of health care services to assist in the application process or eligibility determination.

SEC. 4. Section 3 of this bill incorporates amendments to Section 14124.2 of the Welfare and Institutions Code proposed by both this bill and AB 2565. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1997, (2) each bill amends Section 14124.2 of the Welfare and Institutions Code, and (3)

this bill is enacted after AB 2565, in which case Section 2 of this bill shall not become operative.

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